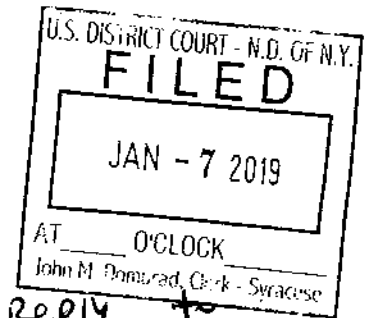


PRELIMINARY STATEMENT



On July 13, 2018 Defendants filed a Reply to Plaintiffs response to Defendants Motion for summary judgement - plaintiff has ^{Denied} ~~submitted~~ a sur-reply memorandum of law to address the arguments made ^{by} Defendants reply to Plaintiff opposition to summary judgement and to further support his motion, now plaintiff submit these arguments as an objection to Magistrate Judge Hummels Report & Recommendation of 12/18/2018.

DEFENDANTS MOTION FOR SUMMARY JUDGEMENT WAS NOT MADE IN FULL COMPLIANCE WITH THE

Defendants Motion must be denied because it was made after the the November 14, 2017 Deadline for motions without request for for extension of time, or showing good cause for the delay in filing summary judgement motion after deadline, pursuant to Fed.R. civ. p 16(b)'s requirement that scheduling "shall not be Modified except upon a showing of good cause." Fed.R.civ.p. 16(b)

Plaintiffs July 17, 2017 Motion to Amend his Complaint is not an excuse for Defen-

Defendants failure to comply with the Motion Deadline for Summary Judgment Dated and set for November 14, 2017, and the courts sympathy should not deepen to the point of providing the defendants with a motion for Summary Judgment now.

As Rule 16(b)'s requirement that scheduling orders "shall not be modified except upon a showing of good cause, defendants failed to request an extension of time to file Summary Judgment or show good cause that Summary Judgment ~~should~~ Motion should be provided 90-120 days later - a mere blanket statement (in a cross-motion to dismiss pursuant FRCP 12(c)) that plaintiff failed to exhaust his remedies is not good cause for a deadline court-ordered modification of the deadline without even a request for an extension of time to file motion for Summary Judgment,

Therefore defendants Motion for Summary Judgment must be denied as untimely pursuant to Fed. R. Civ. P. Rule 16(b) also see Parker v Columbia Pictures Industries, 204 F.3d 326 (2000)

Defendants allege that plaintiff only filed Five grievances while Housed at Eastern C.F.,
DKt 174-2115; DKt No 174-13 (Black Decl)

Plaintiff through grievance exhibits will prove to the court that he file 30 or more grievances and he exhausted his administrative remedies before he filed this action.

By Mr Black declaring "that a review of the inmate records for grievances at Eastern demonstrated that plaintiff filed five grievances while housed at Eastern between December 2014 and February 2015.

Plaintiff will now show that Mr Black Declaration is a lie and further attempt to prevent Plaintiff from receiving his remedy.

On December 10, 2014 plaintiff filed grievance ECF - 26147-14, alleging that he 1) received Misbehavior reports, was keeplocked and Harassed and retaliated against by staff because of his religious hairstyle. staff replied and grievance was filed. see exhibit A 1st Grievance

On December 14, 2014 plaintiff filed a grievance on security captain for covering up for officers. Plaintiff filed a second grievance on captain on 12-15-14

see exhibit B 2nd grievance and reply from security captain, Attached 3rd Grievance, that was never filed.

on 12-20-14 plaintiff filed a grievance against Dep Russo for falsifying documents in grievance investigation pertaining to plaintiffs Hairstyle. see exhibit C 4th grievance. this grievance was not filed, purposely by IGP supervisor (at Eastern) Mauro to cover up for High officials.

on 1-23-15 plaintiff wrote a grievance on IGP supervisor for failing to file my grievance against Dep of Security Russo see exhibit D 5th grievance. IGP supervisor failed to file this grievance as well even though he replied to it

on 12-14-14 plaintiff filed a grievance on officer Cruz for verbal Harassment see exhibit E 6th Grievance with reply attached.

on December 23, 2014 plaintiff wrote a grievance on Sgt Bey for Harassment, Pursuant to Directive 4040 Superintendents are to handle harassment grievances. This grievance was never filed or forwarded to superintendant by IGP supervisor and Superintendant was a part of covering up any way. see Exhibit F 7th Grievance

on December 24, 2014 plaintiff wrote a grievance on Diane Labatte Steward for Failure to mail out his mail to supervisory officials and the court. IAP supervisor failed to file it properly. as you could see the Reply from Miss Labatte exhibit 6 8th Grievance

on January 18, 2014 plaintiff wrote a grievance on IAP Supervisor Mauro for falling to file the grievance against Miss Labatte see exhibit H 9th Grievance with attached reply from Mr Mauro in an attempt to cover up his wrongdoing and Miss Labatte's wrongdoing. this grievance was not filed either.

on December 26, 2014 plaintiff wrote a grievance against the superintendent for allowing officers and supervisory officials at Eastern violate plaintiff's constitutional rights. plaintiff filed grievance with IAP supervisor and sent grievance to commissioner, nothing was filed see exhibit I 10th Grievance.

plaintiff wrote a grievance requesting to be moved to a cell where he could get his food trays without having to climb as plaintiff fell and injured his self. this grievance was written on 12-25-14 at the Hospital on 12-26- plaintiff was released from the prison Hospital, and on said date plaintiff was moved to a cell on the first level where officers could open his cell and plaintiff could grab his food trays. see exhibit j

11th Grievance with internal Movement History Display sheet attached.

on January 8, 2015 plaintiff wrote a grievance pertaining to phone issues see exhibit k 12th Grievance with attached Reply from officials plaintiff grieved.

on ^{February} ~~December~~ 12, 2015 plaintiff wrote a grievance against officer Rodriguez for making Homosexual comments to plaintiff see exhibit L 13th Grievance with reply attached.

on January 18, 2018 plaintiff filed a grievance against Dep Wendland. IGP Mauro

failed to forward or file plaintiff's grievance and superintendant was covering up for his subordinates. plaintiff wrote a grievance against the superintendant and IAP supervisor Mauro pertaining to this grievance. See exhibit D and exhibit I. exhibit D - grievance against IAP supervisor, exhibit I - grievance against superintendant. see exhibit M 14th grievance Dep Wendland

on January 18, 2015 plaintiff wrote a grievance against Lt Sullivan for making plaintiff hairstyle a tier III violation. IAP supervisor failed to file it and superintendant was covering up for his subordinate and plaintiff wrote grievances pertaining to these issues against IAP Mauro for failing to file plaintiff's grievance and against superintendant for covering up for his subordinates. See exhibit D grievance against IAP supervisor and exhibit I grievance against superintendant. exhibit N 15th grievance Lt Sullivan.

on 1-18-15 plaintiff filed a grievance against Sgt Bey for conspiring with Dep Wendland at plaintiffs disciplinary hearing. see exhibit N 16th Grievance. this grievance was not filed purposely in order for IAP Mauro And Superintendent to cover up for High ranking officials. plaintiff wrote a grievance on IAP supervisor see exhibit D and Superintendent see exhibit I for failing to file plaintiffs grievance, and covering up for officials.

on 1-18-18 plaintiff filed a grievance against captain Wesbe for conspiring with Lt Sullivan to give plaintiff a Tier III for his hairstyle. sending Sgt Bey to harass plaintiff and threaten plaintiff. see exhibit O 17th Grievance. This grievance was not filed in an attempt to deny plaintiff exhaustion. plaintiff wrote a grievance against IAP supervisor Mauro about this issue see exhibit D and against Superintendent for covering up for officials see exhibit I

on February 24, 2015 plaintiff wrote a grievance against ~~E.O. Cruz~~ superintendent for failing to move plaintiff from west wing where C.O. Cruz sexually touched plaintiff, after superintendent was made aware. See exhibit P 18th Grievance. this grievance was not filed in an attempt to cover up for officials. plaintiff wrote a grievance on IAP supervisor for failing to file Plaintiff's grievances in the past See exhibit D grievance against IAP supervisor.

on January 23, 2015 plaintiff wrote a second grievance against Diane Labatte see exhibit Q 19th grievance exhibit G first grievance on Miss Labatte. both grievances were not filed in a cover up attempt and they weren't forwarded. plaintiff wrote a grievance against IAP supervisor for failure to file Plaintiff's grievance See exhibit H grievance against IAP Mauro.

on 2/12/15 plaintiff wrote a grievance on Sgt. Cerclari pertaining to Sgt. Cerclari attempting to intimidate plaintiff from using grievance system see exhibit R 20th grievance with attached Reply by Sgt. Cerclari.

February 12,
 on ~~January 26~~ 2015, plaintiff wrote a grievance about being moved to west wing with C.O. Cruz who sexually touched plaintiff on two occasions, and plaintiff filed complaints pertaining to this issue. See exhibit S (21st grievance), that was not filed. plaintiff wrote grievances against IAP Mauro for failure to file plaintiff's grievances in the past, and superintendent was covering up for his subordinates.

on February 12, 2015 plaintiff wrote a grievance on officer Kozak for writing plaintiff a false misbehavior report this grievance was not forwarded to C.O. Ric and labeled a 49- to go directly to superintendent. see exhibit T 22nd grievance

on February 12, 2015 plaintiff wrote a grievance against officer Cruz for sexual touching. see exhibit U 23rd grievance

on February 12, 2015 plaintiff wrote a grievance against C.O. Cruz for sexual touching and Harassment. see exhibit V 24th grievance

On December 18, 2014 plaintiff wrote a grievance against Dep Russo. see exhibit W

25th Grievance this grievance was not filed plaintiff wrote a grievance against IAP Mauro and superintendant for failing to hold officials accountable see exhibit D IAP Mauro grievance see exhibit I Inmates superintendant grievance.

On January 2, 2015 plaintiff wrote a grievance about confinement issues 1) getting his food up to a hour late due to c.o.s failure to open his gate, on 1-8-15 plaintiff was moved to a cell where he could receive his food trays through a feed up slot, 2) on 1-8-15 plaintiff also wrote a grievance, inside the same grievance pertaining to state clothing issue, plaintiff not having state pants and being left to wear the same state pants for a month, on 1-26-15 plaintiff was escorted to state shop by the Sgt to receive new state pants, see exhibit X, 26th grievance with attached Internal Movement History. Therefore these issues were exhausted, resolution through informal channels satisfies the exhaustion requirement, grieving through informal channels is an available remedy, see Marvin v Goord, 225 F.3d 40, 43 n.3 (2d cir. 2001)

on 1-8-15 plaintiff wrote a grievance on Sgt Bey this grievance was never filed, see exhibit Y 27th grievance plaintiff filed grievances against the IAP supervisor

for failing to forward affirmentioned grievance
 see exhibit D plaintiff also wrote a grievance
 against the superintendent for Blatant cover up
 of his subordinates see exhibit I

on January 8, 2015 plaintiff wrote a
 grievance about the freezing cold conditions
 in his housing unit against the area Sgt,
 due to construction and broken windows,
 see exhibit 2 28th grievance on 1-26-15
 plaintiff was moved to west wing unit
 out of the cold into a cell with a heater,
 therefore this issue is exhausted. resolution
 through informal channels satisfies the exhaus-
 tion requirement, grieving through informal
 channels is an available remedy see Marvin v
Goord 225, F.3d 40, 43 n.3. also see internal
 Movement sheet and Reply to grievance attached.

on January 8, 2015 plaintiff wrote a
 grievance on his tier Assistant. this
 Grievance was never filed see exhibit A 1
29th grievance. plaintiff wrote a grievance
 against IAP Mauro for failing to file said
 grievance see exhibit D and plaintiff wrote
 a grievance on superintendent for allowing
 Plaintiff grievances to be blocked. see exhibit I

on February 24, 2015 plaintiff wrote a grievance against Dep Kalao - this grievance was never filed. plaintiff wrote a grievance on IAP supervisor about the aforementioned. See exhibit D plaintiff also wrote a grievance against the superintendent for covering up for his subordinates see exhibit I, grievance against Dep of programs for denying plaintiff access to the court is exhibit B1 30th grievance

on December 25, 2014 plaintiff filed a grievance on SAT Bey for Retaliation, Harassment and admitting that his supervisors sent him. See exhibit C1 31st grievance, IAP supervisor failed to forward Plaintiff's grievance. Plaintiff wrote a grievance against IAP supervisor exhibit D and superintendent failed to file plaintiff grievance as well, as this was a superintendent's grievance see exhibit I

PLANTIFF CONTENDS THAT HE EXHAUSTED HIS ADMINISTRATIVE REMEDIES PURSUANT TO (PLAA).

Plaintiff admits to commencing this Action on April 2, 2015 before CORCS final determination of April 29, 2015. Plaintiff misinterpreted the Grievance directive that stated CORCS deadline, and in so plaintiff interpreted 30 days for CORCS decision that had elapsed as a denial and therefore filed his suit. Plaintiff's misinterpretation should not amount to dismissal see *Hemphill*, 380 F.3d at 686 also see e.g. *Giano v Gaord* 380 F.3d 670, 675-76 (2d Cir. 2004)

Further Defendants are estopped from using exhaustion as an affirmative defense due to defendants ongoing Harassment and Retaliation of plaintiff and IGP Mauro's dedication to cover up for defendants by failing to forward or file plaintiff's grievances at all or in

an attempt to stall the grievance process.

Plaintiff filed a grievance on December 11, 2014 that Isp Mauro failed to forward. ^{November 9, 2014}

Plaintiff filed a grievance ~~on~~ that Isp Mauro failed to forward about Retaliation, Fourth Amendment violations, Denial of Religious exercise and freedom of expression. Pursuant Directive 4040 grievance policy, this grievance suppose to go to the Supt and then after 21 days forward to CORC.

Instead the Supt sends his subordinates to investigate and his subordinates covers up for the defendants and Isp Supervisor and Supt stalls the decision and cover up for defendants as well.

Then CORC stalls making a grievance Remedy impossible, and this process is do purposely to hinder future prisoner suits. See *Sandlin v Poole* 575 F.Supp. 2d 484, 488 (W.D.N.Y., 2008)

Furthermore plaintiff contends that the actions he complains is properly classified as a single, momentary matter in which - case no exhaustion is required.

The circumstances complained of does not affect everyone in the prison community. For example, food, clothing, housing, recreational facilities, see *Neal v. Goord*, 267 F.3d 116 (2001) see *Lawrence*, 238 F.3d at 186, ~~SEE~~ *Nussle*, 224 F.3d at 106.

As explained in *Lawrence*, "the underlying principles requiring exhaustion - giving notice ~~to~~ to administrators and allowing Policy Makers to change their behavior - are not served when a practice is aimed at one specific inmate rather than the prison population as a whole" 238 F.3d at 186.

As plaintiff was found Not Guilty of Refusing to cut his hair which is a religious symbol and freedom to express his self as an individual by

his hairstyle all further acts of punishment was retaliation and harassment because plaintiff had a Mohawk - all defendants worked in cahoots to punish plaintiff because Lt Madison did not like his hairstyle. this is particularized instances ~~that~~ of misconduct directed at plaintiff which falls outside the general living conditions of the facility see Lawrence, 238 F.3d at 185-86 it is appropriate to conclude plaintiff's allegations do not fall in the purview of § 1997 e (2)

1) Defendant Madison told plaintiff to cut his Mohawk hairstyle on or (November 2, 2014) around said date. at that time Plaintiff made Defendant Madison aware that he had a sincerely held religious belief that required the wearing of a Mohawk as a symbol. on November 9, 2014 defendant Madison sent his subordinate CWO Skred to keeplock plaintiff for his hairstyle. on or around November 14, 2014 plaintiff was found Not guilty for his hairstyle being in a Mohawk at a Tier II hearing held by LT Simmons.

Because plaintiff was released from keep lock
 and found Not guilty as well as the fact
 that plaintiff wrote a grievance about the
 affirmation. Plaintiff was retaliated
 against by defendant Simmons who told
 Plaintiff "He know plaintiff has a right
 to wear his hair in a Mohawk but
 Lt Madison is upset and his supervisors
 Supt Lee, Russo and Capt Webb told
 him to find plaintiff guilty" officer
 Cruz, Sullivan, Wendland, Webb, Bey, Vancore,
 Miller, Kozak, Waugh, Connor and Bagg Retal-
 iated against by Authoring, or witness/co-sig-
 ning misbehavior reports or holding Tier II
 and Tier III disciplinary hearing and punishing
 Plaintiff for having a Mohawk haircut
 all because Lt Madison was upset that
 Plaintiff wrote a grievance and won a
 disciplinary hearing decision. all Retaliation
 led to Plaintiff being keep lock confined
 to a cell for 200 plus days straight. these
 act of retaliation were directed at plaintiff
 and does not affect everyone in the prison

Community. these actions are classified as single, momentary, matters Even though ongoing exhaustion is not required See NEAL V GORD, 267 F.3d 116 (2001) See Lawrence, 238 F.3d at 186 See Nussle, 224 F.3d at 106. 2) Defendants Lee, Russo, Madison, Simmons, Sullivan, Wendland, Webbe, Bey, Vancore, Vaughn, Miller, Williamson, and Cruz violated plaintiffs FIRST AMENDMENT const right to the freedom of Religion by writing/authoring, Affirming, or co-signing Tier II and Tier III Misbehaviors Report and punishing plaintiff by keeplock confining plaintiff to S.H.V Restriction and harsher because plaintiff has a Mohawk haircut that all named defendant were aware that plaintiff could have as his hairstyle was not a threat to the safety security or order of the facility see Benjamin V. Coughlin 905 F.2d 571 (2d Cir. 1990). plaintiffs First Amendment right to the freedom of expression was also violated. Defendants were aware of plaintiffs rights and violated those rights knowingly, and with wanton disregard for the law of the land and plaintiffs jurisdiction under such law,

as a citizen of the United States of America and a son, grandson and nephew of military veterans, these violations were not directed at the prison community. these actions are classified as single, momentary matters even though ongoing exhaustion is not required. see *Nolan v Goord*, 267 F.3d 116 (2001) see *Lawrence*, 238 F.3d at 186 see *Nussle*, 224 F.3d at 106.

3) Defendants Calzo, Jennings, and Labatte denied Plaintiff access to the courts by refusing to permit law clerk inmates to assist plaintiff in researching his case for a civil action that was meritrious causing plaintiff to lose that claim, denying plaintiff copies, and interfering with Plaintiff's legal ~~work~~^{mail} and mail to DOCS Commissioner and Governor complaining about plaintiff's violations mentioned in this claim. all aforementioned violations were done out of malice to prevent plaintiff from filing suit and reporting Defendants' misconduct to their supervisor all violations did not affect the prison community, these actions are classified as single, momentary matters therefore exhaustion is not required see *Nolan v Goord*, 267 F.3d 116 (2001) see *Lawrence*, 238 F.3d at 186 see *Nussle*, 224 F.3d at 106.

4) - Defendants Webb, Simmons and Lee violated plaintiffs constitutional Rights to Religious and Regular Reading Material. Plaintiff was punished for having Reading Material Both Regular Reading Material (Magazines, Newspapers etc..) and religious reading Material maliciously and deliberately to cause plaintiff hardship. The first Amendment protects plaintiff's right to get reading material. Plaintiff was Denied this right for no penological reason. See *Procunier v. Martinez*, 416 U.S. 396 (1974) *Thornburgh v. Abbott*, 490 U.S. 401, 404 (1989). Also all violations resulted in a Tier II or Tier III disciplinary hearing that had an Appeal Mechanism therefore exhaustion is not required pursuant Directive 4040 in accordance with (PLRA) standards. 5) Defendants Connor, Williamson and Cruz violated plaintiff's Fourth Amendment rights. Frisking, strip searching, and searching plaintiff's cell for no penological reason. Affirmationed searches were done to plaintiff only as retaliation for plaintiff wearing a Mohawk hairstyle and writing grievances. These instances of violations did not effect the Prison community - these actions are classified

as single, momentary matters directed at plaintiff therefore exhaustion is not required. See Neal v. Gossard, 267 F.3d 116 (2001). See Lawrence, 238 F.3d at 186. See Nussle, 224 F.3d at 106. 6) Defendants Lee, Webb, Simmons, Sullivan, and Westland violated plaintiff's eighth Amendment right by failing to provide plaintiff with extra clothing or blankets to endure the cold weather that was coming in his cell from broken windows that were under construction in or around January 2015, also plaintiff was confined to a cell with urine and feces on the toilet, and green globs of spit and dirt and dust on the floor without being provided with cleaning supply, plaintiff was also denied cleaning his clothing and only had one change of clothing and was confined to a cell with no feed up slot forcing plaintiff to climb up the cell bars to receive food. All of these issues were formally resolved at the facility pursuant to DIR 4040 therefore exhaustion was required in accordance with PLRA. 7) Defendant Cruz

used excessive force against plaintiff and frisked plaintiff in a sexual manner. These incidents are single, momentary matters directed ~~at~~ at plaintiff and does not effect the prison community. (Also sexual Harassment claims do not need to be exhausted pursuant to directive 4040 in accordance with (PLRA) Act zero tolerance.) See Neal v Goord, 267 F.3d 116 (2001) see Lawrence, 238 F.3d at 186 see Nussle, 224 F.3d at 106 8) Defendants Lee, Webb, Russo, Simmons, Wendland and Sullivan violated plaintiffs Fourteenth Amendment rights to due process by failing to be fair and impartial ~~and~~ at Tier II and Tier III disciplinary hearings. Since there is an Appeal mechanism for disciplinary hearing decisions, exhaustion is not required pursuant to directive 4040 in accordance with (PLRA STANDARDS) 9) Plaintiff made supervisory claims against Defendants Lee and Annucci. Defendant Lee directly participated in violating plaintiffs constitutional right to religion, due process, and harsh confinement by restricting plaintiff from wearing his sincerely held religious hairstyle and allowed his subordinates to violate

plaintiffs right to religion defendant Annucci learned of the violation of plaintiffs rights and failed to do anything to fix it see *Ashcroft v Iqbal*, 129 S.Ct. 1937 (2009) as these rights were violated by unconstitutional policies under defendant Annuccis control.

Due to plaintiffs grievance issues with IGP supervisor failing to file grievances and superintendent failing to file grievances, CORC supervisor Seguin covering up in the declaration about plaintiff only filing 5 grievances when plaintiff clearly showed the filing of 31 grievances that were never processed and correspondence throwing away plaintiff mail to C.O.R.C. Plaintiff had no way to effectively exhaust his remedies.

Furthermore plaintiff never used circumventing procedures by submitting a backdoor appeal, to C.O.R.C. Plaintiff filed all grievances with IGP, and superintendent. Both offices failed to file plaintiffs grievances or process.

plaintiff grievances in accordance with PURA standards.

IAP supervisor stated he was consolidating all plaintiffs grievances after plaintiff submitted letter to his office to be forwarded to C.O.R.C.

If you notice none of the grievance have different numbers they all have the same 2 numbers with different filing dates. why is that? because they were not being filed properly.

plaintiff filed grievances against IAP supervisor see exhibit D and H the IAP supervisor refused to follow NY CC 12 tit 7 § 701.5(d)(3)(1) therefore plaintiff was blocked from contacting IAP supervisor to confirm that his appeal was filed and transmitted to C.O.R.C.

Therefore C.O.R.C.'s approximate four month delay in ECF-26147-14 and three month delay in ECF-26217-15 excuse plaintiff from the exhaustion requirement Henderson v. Annucci No 14-cv-4434 2016 WL 3039687 at *10 (W.D.N.Y. Mar 14, 2016)

complaints about the handling of a disciplinary hearing by correction officials are non-grievable under applicable Regulations because there is a separate administrative appeal process for disciplinary actions. N.Y. Comp. Codes, R. & Regs., Tit 7 section 701.3 (e) (2).
 Davis v. Barrett, 576 F.3d 129, 132 (2d Cir 2009)
 Plaintiff contends that he exhausted his Administrative remedies by filing appeals contesting and complaining about hearing officers actions in disciplinary hearing therefore all cause of actions against disciplinary officials must remain in accordance with Davis v. Barrett 576 F.3d at 132-33.

Due to plaintiff's keeplock status a hearing was held in absentia pertaining to plaintiff confinement issue, a Sgt was assigned to handle these issues, therefore instead of resolution in 16 days it maybe 21-28 day because of keeplock status sometimes quicker. See exhibit

D1

on March 27, 2015 Officer Cruz sexually touched plaintiff and subjected

plaintiff to excessive force. outside the hearing office, before plaintiff went inside the hearing to see Lt Simmons for a disciplinary hearing. while inside the hearing plaintiff made Lt Simmons aware of the affirmation as plaintiff had an obvious knot on his heel. Lt Simmons reported the sexual touching, and told plaintiff not to report the excessive ^{force} he'll only make things worse on his self. and the same day March 27, 2015 Lt Simmons moved plaintiff to another housing unit exactly B-Block. From west wing where Cruz worked. See exhibit E-2 Internal Movement history.

In so far as plaintiff becomes subject to dismissal for filing complaint before exhausting grievance Number ECF-26217-15 Exhibit F-2 and ECF 26147-14 Exhibit G-2 plaintiff request permission to reinstitute complaint as plaintiffs administrative remedies are exhausted at this time. further administrative remedies were

unavailable, even though in writing the grievance process is a good mechanism but in real life it's a dead end, with officers and officials unwilling to provide any relief to aggrieved inmates, administrative scheme is opaque by refusing to hear inmates side and consider inmates evidence but totally side with officials, prison administrators thwarted plaintiff from taking advantage of the grievance process through machination, and misrepresentation. Example see exhibit D and exhibit H as well as exhibit 91 to show how Iap supervisor and Corrie communicated took the officials who plaintiff aggrieved word without looking at no evidence or considering plaintiffs grievance. therefore plaintiff exhausted his administrative remedies pursuant to Hemphill and Ross v Blake v.s

136 S. Ct 1850, 1862 (2016) also see Ross, 136 S. Ct. at 1858,

Plaintiff was denied his right to do a surreply by Magistrate Court and any argument they may seem new isn't plaintiff already had Majority.

of his argument Pre-written in hopes for a sur-reply at the Magistrate Court back in July to the AAG's Reply, which Plaintiff was denied.

Plaintiff is unable to receive copies to serve AAG Knapp Blake. Supervisors was aware of every facet of this complaint See exhibit H7 letters to Superintendent and copies to Commissioner Annucci. Supervisors allowed the Abuse.

Further plaintiff wrote his grievances on paper because he was kept locked and unable to get grievance forms from officers. So please don't construe plaintiff's grievance on paper as a letter. On the right hand corner it says Grievance No and it also states Action requested at the end of every grievance complaint which indicates grievance not letters. exhibit H7 is letters.

Therefore Defendants Motion for summary Judgment should be dismissed in its entirety and plaintiffs Complaint scheduled for trial date.

January 2, 2018

Javell

I declare under the penalty of perjury the foregoing is true.